PATENT
Customer No. 22,852
Attorney Docket No. 8698.0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Bernhard NIESWANDT	Group Art Unit: 1645
Application No.: 10/051,168	Examiner: M. Haddad
Filed: January 22, 2002	
For: METHOD FOR THE PROTECTION AGAINST THROMBOTIC DISEASES	

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated July 2, 2002, Applicant respectfully responds as follows. In the Office Action, the Office required restriction under 35 U.S.C. § 121 to one of the following groups of claims:

I: Claims 1-6 and 9-14, drawn to a medicament for protection against thrombotic diseases as it reads on an antibody JAQ1 and a hybridoma and a method of producing;

II. Claims 7-8, drawn to a method for the determination of the expression rate of a collagen receptor GPVI in blood of a patient comprising incubating a sample of the blood with a solid carrier on which antibody JAQ1 is fixed;

III. Claim 15, drawn to a method for the determination of the expression rate of a collagen receptor GPVI in blood of a patient comprising fixing a sample of the blood on a solid carrier; and

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IV. Claim 16, drawn to a method for the determination of the expression rate of a collagen receptor GPVI in blood of a patient comprising fixing monoclonal antibody JAQ1 on a solid carrier.

This restriction requirement is respectfully traversed. However, to be fully responsive to the restriction requirement, Applicant elects, with traverse, the subject matter of Group I, claims 1-6 and 9-14.

According to MPEP § 803, there are two requirements that must be met before a proper Restriction Requirement may be made. These two requirements are: "The inventions must be independent . . . or distinct as claimed; and there must be a serious burden on the Examiner if restriction is required . . ." (emphasis added). Applicants respectfully submit that the Office Action has failed to establish the second requirement set forth in MPEP § 803, that a serious burden exists on the Examiner if restriction is required between the Groups of claims.

In the present application, the Examiner stated that Group I is drawn to a medicament "as it reads on an antibody JAQ1," that Group II is drawn to a method using a solid carrier "on which antibody JAQ1 is fixed," and that Group III is drawn to a method comprising fixing "monoclonal antibody JAQ1 on a solid carrier." (Office Action dated July 2, 2002, at 2, emphasis in original.) Because all three Groups, as stated by the Examiner, contain the same common searchable subject matter, antibody JAQ1, the search and examination of Group I would encompass a search for the subject matter of Groups II and IV.

Additionally, the Examiner indicated that the subject matter in each of Groups II-IV are in the same class 435, and sub class 7.1. (Id.) The Examiner argued that despite the same classification a different field of search would be required to search

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each different Group. Applicant respectfully disagrees. In particular, the Examiner stated that Group II is drawn to a method "for the determination of the expression rate of a collagen receptor GPVI," Group III is drawn to a method "for the determination of the expression rate of a collagen receptor GPVI," and Group IV is drawn to a method "for the determination of the expression rate of a collagen receptor GPVI." (Id.) Because all three Groups, as stated by the Examiner, contain the same common searchable subject matter, a method "for the determination of the expression rate of a collagen receptor GPVI," the search and examination of Group II would encompass a search for the subject matter of Groups III and IV.

It is therefore respectfully asserted that the search and examination of the entire application could be made without serious burden. MPEP § 803 states that "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims directed to distinct or independent inventions." (Emphasis added). Because Applicant has elected Group I, the further search and examination of Groups II-IV would not place a serious burden upon the Examiner.

Thus, in order to avoid unnecessary delay and expense to the Applicant and duplicative examination by the Patent Office, Applicant respectfully requests that the restriction requirement be withdrawn.

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Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: July 30, 2002

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